

Both of the issues raised by the respondent are jurisdictional issues that grant the Appeals Board authority to review the preliminary hearing order. See K.S.A. 44-534a, as amended.

(1) Prior to the preliminary hearing held in this matter, the Administrative Law Judge on January 17, 1996, appointed orthopedic surgeon Sergio Delgado to perform an independent medical examination of the claimant for an evaluation and a disability rating, if appropriate. Dr. Delgado's independent medical examination report dated March 26, 1996, was admitted into evidence at the preliminary hearing. In that report, Dr. Delgado attributed claimant's low back complaints to the fall she sustained while she was working for the respondent on September 7, 1993. Dr. Delgado further opined that claimant had not met maximum medical improvement and was in need of medical treatment for her low back complaints in the form of a work-conditioning program to include physical therapy and back strengthening exercises, supplemented by medication. Claimant established through her testimony that her low back continued to be symptomatic following the fall on September 7, 1993. Claimant further testified that the automobile accident which she had on September 11, 1993, only four days following her work-related accident, injured only the cervical area of her body and not her low back.

Respondent argued that claimant's current need for medical treatment was the result of the subsequent automobile accident and not from the fall that she sustained while working for the respondent. Respondent also questioned the claimant about another subsequent fall in 1994 but respondent was unable to connect that fall to any type of injury involving the claimant's low back.

The Appeals Board disagrees with the arguments of the respondent. We find, for preliminary hearing purposes, that the claimant's testimony, coupled with Dr. Delgado's independent medical report, established that it is more probably true than not that claimant's current need for medical treatment is a result of her low back injury which occurred while she was working for the respondent on September 7, 1993.

(2) Respondent also argued that the claimant's request for medical treatment is barred because she failed to serve a timely written claim on the respondent as required by K.S.A. 44-520a. Respondent contended that the only written claim that was served on the respondent was contained in a letter dated September 20, 1994, from claimant's attorney and received by the respondent on September 21, 1994. Therefore, respondent argued that since respondent had filed an employer's report of accident with the Division within 28 days from claimant's alleged date of accident then claimant's claim for compensation was out of time because the claimant had to serve upon the employer such claim within 200 days from date of accident or suspension of compensation benefits. See K.S.A. 44-557(c). However, claimant placed into evidence at the preliminary hearing a letter from respondent's insurance carrier dated September 23, 1993, which requested claimant to fill out an employee's report of accident and consent form to be returned to the insurance carrier. Claimant testified that she did return these required documents to the insurance company within a few days from the time she received them. Claimant also testified these documents were returned in order to obtain payment of her medical bills.

The Appeals Board finds that a written claim need not take on any specific form. See Ours V. Lackey, 213 Kan. 72, 515 P.2d 1071 (1973). Accordingly, for preliminary hearing purposes, the Appeals Board finds that the documents that the claimant returned to the insurance company at the request of the insurance company in September 1993 constituted a written claim for workers compensation benefits and met the requirements of K.S.A. 44-520a.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order for Medical Treatment entered by Administrative Law Judge Floyd V. Palmer, dated June 21, 1996, should be, and is hereby, affirmed in all respects.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August, 1996.

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BOARD MEMBER

c: James C. Wright, Topeka, KS  
John David Jurcyk, Lenexa, KS  
Floyd V. Palmer, Administrative Law Judge  
Philip S. Harness, Director